

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**THE ANNUITY, PENSION, WELFARE,  
TRAINING AND LABOR MANAGEMENT  
COOPERATION TRUST FUNDS OF THE  
INTERNATIONAL UNION OF OPERATING  
ENGINEERS LOCAL 14-14B, AFLCIO, BY  
THEIR TRUSTEES EDWIN L. CHRISTIAN,  
JOHN CRONIN, THOMAS D. GORDON,  
KENNETH KLEMENS, JR., TYREEF BEVEL,  
JOHN F. O'HARE, WILLIAM TYSON AND  
MICHAEL SALGO, AND INTERNATIONAL  
UNION OF OPERATING ENGINEERS  
LOCAL 14-14B, AFL-CIO, BY ITS BUSINESS  
MANAGER EDWIN L. CHRISTIAN,**

Plaintiffs,

– against –

**CM ASHLAND CONSTRUCTION CORP.,**

Defendant.

**ANN M. DONNELLY**, United States District Judge:

On April 8, 2025, Magistrate Judge Joseph A. Marutollo issued a report and recommendation in which he recommended that the Court grant the plaintiffs' motion for an amended judgment. For the reasons that follow, the Court adopts that report and recommendation in its entirety.

On July 18, 2023, the plaintiff filed a complaint asserting claims against the defendant under the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, *et seq.* (“ERISA”), and Section 301 of the Labor Management Relations Act of 1947, as amended, 29 U.S.C. § 141, *et seq.* (ECF No. 2.) On August 28, 2023, the plaintiffs filed a motion for default judgment, which the Court referred to Judge Marutollo. (ECF No. 12; *ECF Order dated*

*Aug. 30, 2023.*) On January 12, 2024, Judge Marutollo issued a report and recommendation, recommending that the motion for default judgment be granted, that the Court award attorney's fees and costs, and that the plaintiffs be permitted to audit the defendant's books and seek an amended judgment once they had the opportunity to review that material. (ECF No. 17 at 16.) The Court adopted that recommendation in full on January 31, 2024. (ECF 19.)

On October 15, 2024, the plaintiffs filed a motion for amended judgment after they audited the defendant's books. (ECF No. 21.) As noted above, Judge Marutollo issued a *sua sponte* report and recommendation on April 8, 2025, in which he recommends that the Court grant the plaintiffs' motion. No party has filed an objection to the report and recommendation and the time for doing so has passed.

A district court reviewing a report and recommendation "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). To accept a report and recommendation to which no timely objection has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." *VOX Amplification Ltd. v. Meussdorffer*, 50 F. Supp. 3d 355, 369 (E.D.N.Y. 2014).

The Court has carefully reviewed Judge Marutollo's thorough and well-reasoned report and recommendation for clear error and finds none. Accordingly, the Court adopts the report and recommendation in its entirety, grants the plaintiffs' motion for amended judgment, and orders that damages be calculated as follows:

- \$16,002.25 in delinquent ERISA contributions.
- \$864.99 in interest on the delinquent ERISA contributions at 6.0% through August 19, 2024.

- Interest on delinquent ERISA contributions at 6.0% from August 20, 2024 through the date of entry of judgment.
- Statutory damages equal to \$864.99 plus the amount of interest calculated from August 20, 2024 through the date of entry of judgment.
- \$2,447.50 for attorney's fees.
- \$1,199.40 for delinquent non-ERISA contributions.
- Interest on the total amount of damages at 9.0% (in accordance with N.Y. C.P.L.R. § 5004) of the total damages from the intermediary date of March 15, 2023 through the date of entry of judgment.

The Clerk of Court is respectfully directed to close this case, mail a copy of this Order to the plaintiff, and note the mailing on the docket.

**SO ORDERED.**

s/Ann M. Donnelly

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ANN M. DONNELLY  
United States District Judge

Dated: Brooklyn, New York  
April 29, 2025